

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

MARIO A. VALENZUELA,

Plaintiff,

v.

SANTIESTEBAN, *et al.*,

Defendants.

Case No. 1:20-cv-01093-NONE-BAM (PC)

ORDER GRANTING DEFENDANTS'  
MOTION TO STAY CIVIL ACTION UNTIL  
STATE'S CRIMINAL PROCEEDINGS  
AGAINST PLAINTIFF ARE RESOLVED

(ECF No. 34)

ORDER DIRECTING DEFENDANTS TO  
FILE STATUS REPORTS REGARDING  
CRIMINAL PROCEEDINGS

**NINETY (90) DAY DEADLINE**

**I. Introduction**

Plaintiff Mario A. Valenzuela ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendants Santiesteban, Rodriguez, and Alejo for excessive force in violation of the Eighth Amendment and against Defendant Perez for failure to protect in violation of the Eighth Amendment, arising from the incident on June 22, 2019.

Currently before the Court is Defendants' Notice of Related Cases, Motion to Stay, and Request for Judicial Notice, filed March 1, 2021. (ECF Nos. 33, 34.) Defendants move to stay this civil action until Plaintiff's criminal charges in Kings County Superior Court, case number 20CM-1621, arising from the same June 22, 2019 incident involved in this action, are resolved. (ECF No. 34.) Plaintiff did not file an opposition, and the deadline to do so has expired. The

1 motion is deemed submitted. Local Rule 230(l).

2 **II. Discussion**

3 **A. Request for Judicial Notice**

4 Defendants request that the Court take judicial notice of the following documents:

5 (1) Criminal Complaint in People v. Mario Alberto Valenzuela, Kings County Superior Court  
6 case number 20CM-1621; and (2) Criminal docket in People v. Mario Alberto Valenzuela, Kings  
7 County Superior Court case number 20CM-1621. (ECF No. 34-2, Exhs. A, B.)

8 Federal Rule of Evidence 201 permits the Court to take judicial notice at any time. A  
9 judicially noticed fact must be one not subject to reasonable dispute in that it is either:

10 (1) generally known within the territorial jurisdiction of the trial court; or (2) capable of accurate  
11 and ready determination by resort to sources whose accuracy reasonably cannot be questioned.

12 Fed. R. Evid. 201(b). Courts may take judicial notice of facts related to the case before it.

13 Amphibious Partners, LLC v. Redman, 534 F.3d 1357, 1361–62 (10th Cir. 2008) (district court  
14 was entitled to take judicial notice of its memorandum of order and judgment from previous case  
15 involving same parties). This Court may judicially notice the records and filing of other court  
16 proceedings. Tellabs, Inc. v. Makor Issues & Rights, Ltd., 551 U.S. 308, 322 (2007); Bennett v.  
17 Medtronic, Inc., 285 F.3d 801, 802 n.2 (9th Cir. 2002). In addition, a court may take judicial  
18 notice of undisputed matters of public record, including papers filed with the court and the  
19 records of state agencies and administrative bodies. Disabled Rights Action Comm. v. Las Vegas  
20 Events, Inc., 375 F.3d 861, 866 n.1 (9th Cir. 2004); Lundquist v. Cont'l Cas. Co., 394 F. Supp. 2d  
21 1230, 1242–42 (C.D. Cal. 2005) (stating that court may take judicial notice of records and reports  
22 of administrative bodies).

23 Because the Court may take judicial notice of public records, including duly recorded  
24 documents under Rule 201(b)(2), Defendants' request to take judicial notice of the above-  
25 mentioned documents is granted.

26 **B. Motion to Stay**

27 The district court "has broad discretion to stay proceedings as an incident to its power to  
28 control its own docket." Clinton v. Jones, 520 U.S. 681, 706 (1997) (citing Landis v. North

1 American Co., 299 U.S. 248, 254 (1936)). A stay is discretionary and the “party requesting a stay  
 2 bears the burden of showing that the circumstances justify an exercise of that discretion.” Nken  
 3 v. Holder, 556 U.S. 418, 433–34 (2009). “Generally, stays should not be indefinite in nature.”  
 4 Dependable Highway Exp., Inc. v. Navigators Ins. Co., 498 F.3d 1059, 1066–67 (9th Cir. 2007).  
 5 If a stay is especially long or its term is indefinite, a greater showing is required to justify it.  
 6 Yong v. I.N.S., 208 F.3d 1116, 1119 (9th Cir. 2000). The Court should “balance the length of  
 7 any stay against the strength of the justification given for it.” Id.

8 “The Constitution does not ordinarily require a stay of civil proceedings pending the  
 9 outcome of criminal proceedings.” Keating v. Office of Thrift Supervision, 45 F.3d 322, 324 (9th  
 10 Cir. 1995). “In the absence of substantial prejudice to the rights of the parties involved,  
 11 [simultaneous] parallel [civil and criminal] proceedings are unobjectionable under our  
 12 jurisprudence.” Id. “Nevertheless, a court may decide in its discretion to stay civil  
 13 proceedings . . . ‘when the interests of justice seem[ ] to require such action.’ ” Id. (citations  
 14 omitted).

### 15 **1. Same Nucleus of Facts**

16 When a civil plaintiff brings claims under § 1983 that are “related to rulings that will  
 17 likely be made in a pending or anticipated criminal trial,” it is “common practice” for the court  
 18 “to stay the civil action until the criminal case or the likelihood of a criminal case is ended.”  
 19 Wallace v. Kato, 549 U.S. 384, 393–94 (2007); see also Fed. Saving & Loan Ins. Corp. v.  
 20 Molinaro, 889 F.2d 899, 902 (9th Cir. 1989).

21 When determining whether a stay is appropriate, courts look to whether the criminal  
 22 defendant’s Fifth Amendment rights may be implicated by the civil proceedings. Keating, 45  
 23 F.3d at 324 (citing Molinaro, 889 F.2d at 902). Courts also consider (1) the interest of the  
 24 plaintiff in proceeding with the litigation and the potential prejudice to the plaintiff of a delay;  
 25 (2) the convenience of the court and the efficient use of judicial resources; (3) the interests of  
 26 third parties; and (4) the interests of the public. Keating, 45 F.3d at 324–25.

27 Here, the civil rights action implicates Plaintiff’s Fifth Amendment rights. The facts and  
 28 circumstances underlying Plaintiff’s criminal prosecution for battery on a non-confined person,

1 Correctional Officer C. Santiesteban, by a prisoner while confined in California State Prison and  
2 custodial possession of weapon, substantially overlaps with the excessive force and failure to  
3 protect claims at issue in this case. Both cases involve the June 22, 2019 incident between  
4 Plaintiff and Defendant Santiesteban and will involve substantially all of the same parties and  
5 witnesses. Thus, if this case proceeds, Defendants will seek discovery from Plaintiff, and he will  
6 be required to respond under oath. The discovery will involve Plaintiff's alleged misconduct on  
7 June 22, 2019. Thus, there exists a substantial risk of prejudice to Plaintiff's Fifth Amendment  
8 rights.<sup>1</sup> Furthermore, if Plaintiff invokes his Fifth Amendment rights it may impede Defendants'  
9 discovery. Jones v. Conte, No. C045312S1, 2005 WL 1287017, at \*1 (N.D. Apr. 19, 2005)  
10 (finding that a stay of the civil case involving defendant in criminal action was appropriate  
11 "because [i]f discovery moves forward, [the] defendant will be faced with the difficult choice  
12 between asserting [his] right against self-incrimination, thereby inviting prejudice in the civil  
13 case, or waiving those rights, thereby courting liability in the civil case.") (internal quotations and  
14 citation omitted).

15 Likewise, the other Keating factors also support a stay. Any prejudice to Plaintiff is  
16 minimal given that both proceedings involve the similar facts and witnesses, and it is unlikely that  
17 evidence will be lost or memories will fade with passage of time. McCormick v. Rexroth, No. C  
18 09-4188 JT, 2010 WL 934242, at \*3 (N.D. Cal. Mar. 15, 2010). In addition, the public interest  
19 weighs in favor of a stay because "[t]he public has an interest in 'ensuring that the criminal  
20 process is not subverted' by ongoing civil cases." Douglas v. United States, No. C 03-4518, 2006  
21 WL 2038375, at \*6 (N.D. Cal. July 17, 2006).

22 Furthermore, if a stay is not granted the defenses available may be limited. If the court in  
23 the criminal action considers Plaintiff's factual allegations regarding the June 22, 2019 incident,  
24 such findings may be binding in this Court. Until resolution of the criminal proceedings, it is  
25 unclear whether certain defenses are available, such as, a Heck bar or issue preclusion. See

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27 <sup>1</sup> Indeed, Defendants note that Plaintiff's attorney in the criminal proceedings has objected to  
28 Defendants' taking of Plaintiff's deposition in this action while the criminal case is still pending.  
(ECF No. 34-1, ¶ 5.)

1 Wallace, 549 U.S. at 393-94 (noting that the question of whether a section 1983 action is barred  
 2 by Heck is more difficult to answer where the plaintiff is facing charges of resisting arrest or  
 3 similar conduct arising from the same incident he is claiming excessive force, a stay may be  
 4 appropriate until such time as the underlying criminal proceedings are conducted. “If the plaintiff  
 5 is ultimately convicted, and if the stayed civil action would impugn that conviction, Heck will  
 6 require dismissal; otherwise, the civil action will proceed, absent some other bar to suit.”)  
 7 (citation omitted); see also Vivas v. Cty. of Riverside, No. EDCV 15-1912-VAP (DTBx), 2016  
 8 WL 9001020, at \*3 (C.D. Cal. Jan. 12, 2016) (staying excessive force case where criminal  
 9 prosecution for resisting arrest was pending).

10 Judicial efficiency also favors imposition of a stay because Plaintiff’s criminal action  
 11 involves many of the same facts. Accordingly, the Court will stay this action until Plaintiff’s  
 12 criminal charges have been resolved.

## 13 2. Younger Abstention

14 Absent extraordinary circumstances, federal courts may not interfere with ongoing state  
 15 criminal proceedings. See Younger v. Harris, 401 U.S. 37, 43–54 (1971); Sprint Commc’ns, Inc.  
 16 v. Jacobs, 571 U.S. 69, 77 (2013). A court may consider *sua sponte* whether Younger abstention  
 17 should be invoked at any point in the litigation. H.C. ex rel. Gordon v. Koppel, 203 F.3d 610,  
 18 613 (9th Cir. 2000). Abstention is proper regardless of whether the applicant seeks declaratory  
 19 relief, injunctive relief, or damages. See Mann v. Jett, 781 F.2d 1448, 1449 (9th Cir. 1986)  
 20 (“When a state criminal prosecution has begun, the Younger rule directly bars a declaratory  
 21 judgment action” as well as a section 1983 action for declaratory relief and damages “where such  
 22 an action would have a substantially disruptive effect upon ongoing state criminal proceedings.”);  
 23 Gilbertson v. Albright, 381 F.3d 965, 984 (9th Cir. 2004) (en banc) (Younger abstention applies  
 24 to actions for damages as it does to declaratory and injunctive relief).

25 A court may apply a stay under Younger when: “(1) the state court proceedings are  
 26 ongoing; (2) the proceedings implicate important state interests; and (3) the state proceedings  
 27 provide an adequate opportunity to raise the constitutional claims.” Escobar v. LASD Male Doe,  
 28 No. CV-17-7352-DSF (SP), 2017 WL 7050642, at \*2 (C.D. Cal. Nov. 30, 2017) (citing

1 Middlesex Cty. Ethics Comm. v. Garden State Bar Ass'n, 457 U.S. 423 (1982)).

2 Even if a stay is not warranted under the former analysis, a stay is warranted under  
3 Younger.

4 Here, Plaintiff's criminal case is ongoing and implicates the State of California's  
5 important interest in ensuring the integrity of its criminal justice system. See Kelly v. Robinson,  
6 479 U.S. 36, 49 (1986) ("the States' interest in administering their criminal justice systems free  
7 from federal interference is one of the most powerful of the considerations that should influence a  
8 court considering equitable types of relief."). Indeed, Plaintiff may raise constitutional issues in  
9 the state proceedings. See Pennzoil Co. v. Texaco, 481 U.S. 1, 15 (1987) ("a federal court should  
10 assume that state procedures will afford an adequate remedy, in the absence of unambiguous  
11 authority to the contrary."). In addition, Plaintiff is seeking damages in this civil action.  
12 Accordingly, it is clear that principles of judicial comity authorize the Court to stay this action  
13 until Plaintiff's criminal proceedings have concluded.

14 **III. Conclusion and Order**

15 Based on the foregoing, it is HEREBY ORDERED as follows:

- 16 1. Defendants' motion to stay civil action, (ECF No. 34), is GRANTED;
- 17 2. The instant action is STAYED pending resolution of Plaintiff's criminal case; and
- 18 3. Defendants shall file a status report within **ninety (90) days** from the date of service of  
19 this order, and every **sixty (60) days** thereafter, addressing the status of the criminal  
20 proceedings until they are resolved.

21  
22 IT IS SO ORDERED.

23 Dated: April 9, 2021

24 /s/ Barbara A. McAuliffe  
25 UNITED STATES MAGISTRATE JUDGE  
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